IN THE HIGH COURT OF JUDICATURE AT BOMBAY
APPELLATE SIDE

ARBITRATION PETITION NO. 11 OF 2005

M/s. J.H. Bhambhani .. Petitioner

Vs.

The State of Maharashtra .. Respondent

Mr. U.S. Samudrala for Petitioner.
Mr. K.K. Tated, AGP for Respondent.

CORAM : B. H. MARLAPALLE,J.

Date : February 17, 2006.

P.C.:

1. Heard Mr. Samudrala, the learned counsel for the petitioner who was a contractor for the work of "improvement to Alibag Murud Shivardhan Bagmandala Road Km. 16/400 to 26/400 Borli Panchratan to velas Phata to Dighi" as per the work order dated 30/9/1999 and the tender cost was of Rs.1,82,46,272/-. The contractor claims to have completed the work by 20/5/2003 and a completion certificate was issued by the Superintending Engineer, PWD Special Project Circle, Konkan Bhavan, CBD, Navi Mumbai. The contractor submitted claims late but were not settled and, therefore, Advocate's notice dated 20/1/2004 was issued for settling the claims or in the alternative follow the procedure laid down under Clause 30 of the contract agreement. There was no response and, therefore, this petition has been filed praying for an

appointment of sole Arbitrator or Arbitral Tribunal under the Arbitration and Conciliation Act, 1996.

2. The respondent-department has filed an affidavit in reply under the signature of the Executive Engineer and this petition under Section 11 of the Arbitration and Conciliation Act, 1996 has been opposed on the grounds that Clause 30 of the General Conditions of Contract has provided for a builtin mechanism for settling the claims of the contractor.

3. Clause 30 of the General Conditions of Contract reads as under:-

> "If the contractor is not satisfied with the order passed by the Chief Engineer as aforesaid, the Contractor, may within thirty days of receipt by him of any such order appeal against it to the Member Secretary, Maharashtra Jeevan Pradhikaran, who, if convinced that prima-facie the Contractor's claim rejected by Superintending Engineer/ Chief Engineer is not frivolous and that there is some substance in the claim of the Contractor as would merit a detailed examination and decision by the MJP shall put to the MJP for suitable decision."

4. The contentions raised by the respondent-department are based on the General Conditions of Contract and, therefore, this application cannot be entertained. At the same time, it would be necessary for the respondent to process the claim or claims made by the petitioner as per Clause 30 of the General Conditions of Contract expeditiously.

5. In the premises, it is directed that the respondent shall process the pending claims of the petitioner under the provisions of Clause 30 of the General Conditions of Contract and initiate action for the same within four weeks from today.

6. Petition is disposed off in terms of the above directions.

(B.H. Marlapalle, J.)